

1           The opinion in support of the decision being entered  
2           today is *not* binding precedent of the Board  
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4           UNITED STATES PATENT AND TRADEMARK OFFICE  
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7           BEFORE THE BOARD OF PATENT APPEALS  
8           AND INTERFERENCES  
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11           *Ex parte* JOSEPH J. HARDING  
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14           Appeal 2006-3186  
15           Application 10/700,364  
16           Technology Center 3700  
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19           Decided: September 12, 2007  
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22           *Before:* TERRY J. OWENS, MURRIEL E. CRAWFORD, and DAVID B.  
23           WALKER *Administrative Patent Judges.*

24           CRAWFORD, *Administrative Patent Judge.*  
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28           DECISION ON APPEAL  
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30           STATEMENT OF CASE

31           Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection  
32           of claims 12-15. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

33           Appellant invented a packaging system for providing a controlled  
34           quantity of dunnage material for top-filling a container in which one or more  
35           objects are packed for shipping (Specification 1).

36           Claim 12 under appeal reads as follows:

1           12. A void-fill system for automatically determining and  
2           producing an amount of dunnage material sufficient to fill the void  
3           left in a container in which one or more objects have been placed,  
4           comprising:

5                 a dunnage dispenser which is operable to dispense a controlled  
6           amount of a dunnage material;

7                 a void-measuring apparatus which measures the amount of void  
8           left in a container after one or more objects have been placed in the  
9           container, the void-measuring apparatus being operative to command  
10           the dunnage dispenser to dispense a prescribed amount of dunnage  
11           material; and

12                 an input device connected to the void-measuring apparatus  
13           which enables selection of a void-fill density from a plurality of void-  
14           fill densities, and wherein the void-measuring apparatus, in response  
15           to a selected void-fill density, varies the amount of dunnage material  
16           that the dunnage dispenser is commanded to dispense per measured  
17           volume of void, thereby to obtain the selected void-filled density.

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19           The Examiner rejected claims 12 and 14 under 35 U.S.C. § 102(b) as  
20           being anticipated by, or in the alternative under 35 U.S.C. § 103 as being  
21           unpatentable over Harding.

22           The Examiner rejected claims 13 and 15 under 35 U.S.C. § 103 as  
23           being unpatentable over Harding in view of Hale or Reynolds.

24           The prior art relied upon by the Examiner in rejecting the claims on  
25           appeal is:

Hale	US 3,819,918	Jun. 25, 1974
Reynolds	US 5,719,678	Feb. 17, 1998
Harding	US 5,871,429	Feb. 16, 1999

30           Appellant contends that Harding does not disclose or suggest an input  
31           device connected to a void-measuring apparatus which enables the selection  
32           of a void-fill density from a plurality of void-fill densities.

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## ISSUE

2       The issue is whether Appellant has shown that the Examiner erred in  
3 finding that Harding discloses or suggests an input device connected to a  
4 void-measuring apparatus which enables the selection of a void-fill density  
5 from a plurality of void-fill densities.

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## FINDINGS OF FACT

7       Appellant's invention is a void-fill system which includes an input  
8 device 98 connected to a logic device 76. An operator may select a void fill  
9 density from a plurality of void fill densities (Specification 11). Upon the  
10 selection of a void-fill density an input or logic device 76 varies the amount  
11 of dunnage material to be dispensed per measured volume of void  
12 (Specification 11). For example, if minimal protection is needed a less  
13 dunnage is dispensed per unit volume but if maximum protection is needed  
14 more dunnage is dispensed per unit volume. (Specification 11).

15       Harding discloses a void-fill system which includes a void volume  
16 probe which measures the void volume of a container to determine the  
17 volume of padding necessary to fill the container (Harding, col 18, ll. 29-  
18 34). The information from the probe is transferred to a logic device 48  
19 (Harding, col. 18, ll. 19-21). The logic device 48 determines the amount of  
20 pad and length of pad to produce to adequately cushion the container  
21 (Harding, col. 18, ll. 10-14). Harding does not include an input device or  
22 logic device which enables the selection of a void-fill density from a  
23 plurality of void-fill densities. Harding discloses only one void-fill density  
24 i.e., the density necessary to fill the container. Harding does not allow the  
25 operator to vary the amount of dunnage to fill the container.

Hale and Reynolds do not disclose an input device which enables the selection of void-fill density from a plurality of void-fill densities.

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4 DISCUSSION

5 We will not sustain the rejection of claims 12 and 14 under 35 U.S.C.  
6 § 102 as anticipated by Harding or in the alternative under 35 U.S.C. § 103  
7 as being unpatentable over Harding. Harding does not disclose nor does  
8 Harding suggest an input or logic device which enables an operator to select  
9 a void-fill density from a plurality of void-fill densities as required by claims  
10 12 and 14.

11        We will also not sustain the rejection of claims 13 and 15 under 35  
12 U.S.C. § 103 as being unpatentable over Harding in view of Hale or  
13 Reynolds because claims 13 and 15 depend from claims 12 and 14 and thus  
14 require the input device which enables an operator to select a void-fill  
15 density from a plurality of void-fill densities and neither Hale nor Reynolds  
16 remedies the deficiency of Harding.

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CONCLUSION

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The decision of the Examiner is reversed.

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REVERSED

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14 RENNER OTTO BOISSELLE & SKLAR, LLP

15 1621 EUCLID AVENUE

16 NINETEENTH FLOOR

17 CLEVELAND, OH 44115